IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2557 OF 2004

Jayraj Chhotelal Arya : Petitioner

V/s.

The Municipal Corporation of Greater Mumbai : Respondent

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Mr.H. R. Sharma for the petitioner.
Ms Priti Purandare for the respondent.

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CORAM : DALVEER BHANDARI, C.J. &
S.A. BOBDE, J.

DATE : OCTOBER 14, 2005.

P.C.:

1. The petitioner's father filed a suit against the respondent-Municipal Corporation of Greater Mumbai that he is entitled to vacant possession, occupation and enjoyment of one shop in the newly constructed market at Khar Danda, Khar (West), Bombay—400 052. The plaintiff's suit was decreed and the defendant-Corporation was directed not to remove the plaintiff from pitch No.23 at Khar Danda Market, Khar (West), Mumbai.

2. The learned counsel for the Corporation submits that against the decision in the suit, no appeal has been filed and the order passed by the City Civil Court, Mumbai, on 25.2.1977 in L.C. Suit No.2038 of 1980 has attained finality.

3. The petitioner has filed this petition praying that since pitch No.23 in respect of which the suit was decreed and against which no appeal was filed, the petitioner be permitted to reconstruct/repair pitch No.23. In case pitch No.23 has not been properly demarcated, we direct the Corporation to properly demarcate pitch No.23 and permit the petitioner to re-construct/repair the pitch allotted to him by the City Civil Court while decreeing the suit. The petitioner shall be permitted to reconstruct/repair pitch No.23, in accordance with law.

4. No further directions are necessary. The petition is disposed of.

CHIEF JUSTICE

S.A. BOBDE, J.